

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE REQUEST OF SUSAN DEVINE FOR
JUDICIAL ASSISTANCE PURSUANT TO
28 U.S.C. § 1782 FOR THE
LIECHTENSTEIN PRINCELY COURT

Case No. 1:22-mc-00133

**MOTION FOR EXPEDITED CONSIDERATION OF *EX PARTE* REQUEST OF SUSAN
DEVINE FOR JUDICIAL ASSISTANCE PURSUANT TO 28 U.S.C. § 1782
FOR THE LIECHTENSTEIN PRINCELY COURT**

Petitioner Susan Elaine Devine (“Ms. Devine”), by and through her undersigned counsel, respectfully requests that the Court expedite consideration of her *ex parte* request for judicial assistance pursuant to 28 U.S.C. § 1782, such that the request is ruled on prior to 6:00pm on May 16, 2022. Expedited consideration is necessary because, as set forth below, if the Eleventh Circuit does not grant a stay of an order entered by Judge John Steele of the U.S. District Court for the Middle District of Florida, Spears & Imes LLP may destroy the documents sought by the proposed subpoena attached to Ms. Devine’s application as Exhibit 1.

1. On May 11, 2022, Ms. Devine filed an *ex parte* request pursuant to 28 U.S.C. § 1782, seeking the issuance of a subpoena to Spears & Imes LLP that would compel the law firm to produce certain non-privileged documents that have been requested by the Liechtenstein Princely Court in connection with a criminal investigation of Ms. Devine in Liechtenstein for alleged money laundering.

2. As set forth in the application, Spears & Imes LLP is in possession of the documents subject to the proposed subpoena pursuant to a September 14, 2021 order entered by Judge Steele in the Middle District of Florida (the “Transfer Order”), which directed that Ms. Devine’s copy of the confidential documents at issue, which were at that time being held under seal by the clerk of court, be “return[ed] . . . to counsel for plaintiffs [i.e. Spears & Imes] for

destruction or return pursuant to paragraph 18 of the” Protective Order entered in that case.

Absolute Activist Value Master Fund Limited et al. v. Devine, No. 2:15-cv-00328-JES-MRM (M.D. Fla.) (hereinafter “2015 RICO Action”) (Dkt. 812) (emphasis in original).

3. The Transfer Order, however, was stayed by subsequent order of Judge Steele on September 28, 2021. *See* 2015 RICO Action (Dkt. 816). Judge Steele directed that the Transfer Order would remain stayed “pending further Order” of the Court. *Id.*

4. On April 5, 2022, Ms. Devine filed a motion to extend the stay of the Transfer Order pending the outcome of appellate proceedings in the Eleventh Circuit relating to the scope and applicability of the Protective Order. 2015 RICO Action (Dkt. 834).

5. On May 2, 2022, Judge Steele denied Ms. Devine’s motion to extend the stay, and ordered that the stay will be lifted at 6:00pm on May 16, 2022, unless otherwise ordered by the Eleventh Circuit Court of Appeals. 2015 RICO Action (Dkt. 846).

6. Ms. Devine filed a motion to stay the Transfer Order in the Eleventh Circuit on May 10, 2022. *See* Time-Sensitive Motion to Stay Pending Appeal, *Absolute Activist Value Master Funds Limited, et al. v. Devine*, No. 21-13587 (11th Cir., filed May 10, 2022). That motion is presently pending, with a response from the Funds¹ due by 10:00 a.m. on May 13, 2022.

7. If the stay of the Transfer Order is lifted, the Funds and their counsel will be permitted to destroy the documents requested by the Liechtenstein Princely Court, which are the only set of documents in the control of any U.S.-based entity. If the documents are allowed to be

¹ “The Funds” refers to the following nine Cayman Island-incorporated hedge funds that were plaintiffs in the 2015 RICO Action: (i) Absolute Activist Value Master Fund Limited, (ii) Absolute East West Fund Limited, (iii) Absolute East West Master Fund Limited, (iv) Absolute European Catalyst Fund Limited, (v) Absolute Germany Fund Limited, (vi) Absolute India Fund Limited, (vii) Absolute Octane Fund Limited, (viii) Absolute Octane Master Fund Limited, and (ix) Absolute Return Europe Fund Limited.

destroyed, that would moot the pending appellate proceedings in the Eleventh Circuit,² as well as the *ex parte* application that is presently before the Court.

8. Accordingly, Ms. Devine respectfully requests that the Court expedite consideration of her *ex parte* request, such that a decision is rendered sufficiently before 6:00 p.m. on May 16, 2022, such that Ms. Devine can notify Spears & Imes LLP of the issuance of the subpoena and obtain service upon the law firm.³

Dated: May 12, 2022

Respectfully submitted,

SCHOEPPPL LAW, P.A.

FOX ROTHSCCHILD LLP

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² See *Absolute Activist Value Master Funds Limited, et al. v. Devine*, No. 21-13587 (11th Cir., opened Oct. 15, 2021); *Absolute Activist Value Master Funds Limited, et al. v. Devine*, No. 22-11313 (11th Cir., opened April 22, 2022); *Absolute Activist Value Master Funds Limited, et al. v. Devine*, No. 22-11590 (11th Cir., opened May 9, 2022).

³ Due to the time-sensitive nature of her request, counsel is proceeding by way of a motion for expedited consideration. Should the Court require a formal motion for emergency relief or for a stay, counsel will promptly prepare such a motion.